

1/11/01

**THIS DISPOSITION  
IS NOT CITABLE AS PRECEDENT  
OF THE T.T.A.B.**

Paper No. 12  
SIMMS/YO

**UNITED STATES PATENT AND TRADEMARK OFFICE**

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**Trademark Trial and Appeal Board**

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In re InfoSpace, Inc.

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Serial No. 75/498,008

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Sean W. Hallisky of Christensen O'Connor Johnson & Kindness  
PLLC for InfoSpace, Inc.

Tricia L. Sonneborn, Trademark Examining Attorney, Law  
Office 110 (Chris Pedersen, Managing Attorney)

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Before Simms, Bucher and Holtzman, Administrative Trademark  
Judges.

Opinion by Simms, Administrative Trademark Judge:

InfoSpace, Inc. (applicant), a Delaware corporation,  
has appealed from the final refusal of the Trademark  
Examining Attorney to register the mark PREFERRED SHOPPERS  
NETWORK ("NETWORK" disclaimed) for advertising, promoting,  
and arranging for the sale of goods and services of others  
through the electronic online distribution of information

and incentives.<sup>1</sup> The Examining Attorney has refused registration under Section 2(e)(1) of the Act, 15 U.S.C. §1052(e)(1), on the basis that applicant's mark is merely descriptive. Applicant and the Examining Attorney have submitted briefs but no oral hearing was requested.

We affirm.

The Examining Attorney argues that applicant's mark is merely descriptive of its online distribution services because it consists of a laudatorily descriptive term of the intended user or type of shopper using applicant's services ("PREFERRED" or "PREFERRED SHOPPERS"), as well as the term "NETWORK", a generic term for online services.<sup>2</sup> Accordingly, it is the Examining Attorney's position that applicant's mark is merely descriptive of services performed by a computer network which cater to preferred shoppers. The Examining Attorney has made of record dictionary definitions and third-party registrations

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<sup>1</sup> Application Serial No. 75/498,008, filed June 8, 1998, based upon applicant's allegation of a bona fide intention to use the mark in commerce.

<sup>2</sup> One of the definitions of "network" of record is: "A system of computers interconnected by telephone wires or other means in order to share information." The Examining Attorney also contends that a "network" may be considered "an extended group of people with similar interests or concerns."

wherein the words "PREFERRED \_\_\_\_\_ NETWORK" have been disclaimed or placed on the Supplemental Register.<sup>3</sup>

It is applicant's position, on the other hand, that its mark is suggestive of a number of different things and that consumers are not likely to think of applicant's services when encountering its mark. According to applicant, consumers will need to use imagination and reasoning in order to ascertain the nature of applicant's services.

The multi-stage reasoning process that would be employed by a viewer of the mark PREFERRED SHOPPERS NETWORK would be, first, the idea of a group of people who are in some way given preferential treatment with regard to shopping. Second, the viewer of the mark would then need to interpret the terms PREFERRED SHOPPERS NETWORK in the context of the Internet, suggestive of the term NETWORK. Therefore, through this, or a similar, multi-stage reasoning process, the viewer of the mark PREFERRED SHOPPERS NETWORK would ultimately associate Appellant's mark with its services of advertising, promoting and arranging for the sale of goods and services of others through the electronic on-line distribution of information and incentives.

Applicant's brief, 5. Applicant also asks us to resolve any doubt in its favor and publish the mark for opposition.

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<sup>3</sup> The material from the Internet attached to the Examining Attorney's brief is excluded. See Trademark Rule 2.142(d).

Upon careful consideration of the evidence and arguments in this case, we conclude that applicant's mark is merely descriptive of its services.

It is well settled that a term is considered to be merely descriptive of goods and/or services, within the meaning of Section 2(e)(1) of the Trademark Act, if it immediately describes an ingredient, quality, characteristic or feature thereof or if it directly conveys information regarding the nature, function, purpose or use of the goods and/or services. In *re* Abcor Development Corp., 588 F.2d 811, 200 USPQ 215, 217-18 (CCPA 1978). It is not necessary that a term describe all of the properties or functions of the goods and/or services in order for it to be considered to be merely descriptive thereof; rather, it is sufficient if the term describes a significant attribute or feature about them. Moreover, whether a term is merely descriptive is determined not in the abstract, but in relation to the goods and/or services for which registration is sought, the context in which it is being used on or in connection with those goods and/or services, and the possible significance that the term would have to the average purchaser of the goods and/or services because of the manner of its use. In *re* Bright-Crest, Ltd., 204 USPQ 591, 593 (TTAB 1979). Accordingly, whether consumers

could guess what the product [and/or service] is from consideration of the mark alone is not the test. In re American Greetings Corp., 226 USPQ 365, 366 (TTAB 1985).

Contrary to applicant's arguments, we believe that the asserted mark immediately informs prospective purchasers of the nature and intended users of applicant's services without any multi-stage reasoning process. The record sufficiently establishes that the relevant public is likely to view applicant's mark as merely descriptive of the intended users or class of purchasers ("PREFERRED SHOPPERS") who are offered applicant's services by means of a computer network. As such, the mark is merely descriptive of applicant's services. See In re Netts Designs, Inc., \_\_\_ F.3d \_\_\_, \_\_\_ USPQ2d \_\_\_ (Fed. Cir. January 9, 2001)("THE ULTIMATE BIKE RACK" held a laudatory descriptive phrase, subject to disclaimer, touting the superiority of applicant's bike racks); In re Boston Beer Co., 198 F.3d 1370, 53 USPQ2d 1056, 1058 (Fed. Cir. 1999)("THE BEST BEER IN AMERICA" held "so highly laudatory and descriptive of the qualities of [applicant's] product that the slogan does not and could not function as a trademark to distinguish [applicant's] goods and serve as an indication of origin"); and In re Inter-State Oil Co.,

219 USPQ 1229 (TTAB 1983) ("PREFERRED" held merely descriptive for bird and squirrel repellant).

Decision: The refusal of registration is affirmed.

